

Bountiful City
Administrative Committee Minutes
June 21, 2010
5:00 P.M.

Present: Chairman Aric Jensen; Committee Member - John "Marc" Knight; Committee Member – Dave Badham; Assistant Planner - Dustin Wright and Recording Secretary - Cindy Gruendell

1. Chairman Jensen opened the meeting at 5:11 pm and had everyone present introduce themselves.
2. Consider approval of minutes for June 14, 2010.

Mr. Knight made a motion to approve the minutes for June 14, 2010 as written. Mr. Jensen seconded the motion. Motion passed 2-0 with Dave Badham abstaining as he was not present for the meeting.

3. Continued Item – Consider a variance to build on slopes over 30% at 993 Highland Drive, Cory and Kara Chapman, applicant.

Cory and Kara Chapman, applicant; Dave Wilding, Engineer; and Brad Miller, Impressive Homes were present. Mr. Wright presented the staff report.

As background, the property is located in the Residential Foothill (R-F) zone. The Applicants have not followed the approved site plan, and have built on unusable land and have made cuts and fills exceeding 10 feet without a variance. A public hearing was previously held and closed after a lengthy comment period, and the decision was continued until this date.

A variance is a waiver or modification of a land use regulation due to unique circumstances of a particular parcel of land ("attached to the property") that makes adhering to the land use regulation unreasonable or unfair and does not apply to the circumstances of people. (See attached copy of Findings of Fact.)

Based on the Findings of Fact and Conclusions of Law drafted by the City Attorney that show the applicant does not meet the requirements for a variance, Staff recommends denial of a variance.

Mr. Jensen explained that this hearing is for a variance that is governed by State law, and that the Land Use Development Management Act (aka LUDMA), establishes all the parameters in which a zoning ordinance must function throughout the State. There are general provisions that all cities must follow, and then there are provisions that allow a city to establish its own land use ordinance. Variances are part of State law, and the hearing officer is bound to follow them. The Findings of Fact prepared by the City Attorney is based on the State Law regarding variances.

While variances are issues of the land, an ADA/FHA Accommodation request is an issue of the people and is based in federal law.

Mr. Mahan explained that a decision on the Variance does not affect the decision on the ADA / FHA Accommodation request.

Mr. Jensen explained the appeals process to the applicant.

Mrs. Chapman presented pictures of what the property might look like after it has been vegetated. Mr. Chapman discussed what he feels the landscaping will look like after the walls are completed.

Mrs. Chapman explained that they have letters from the original wall engineer, Lynn Carlson, and the current engineer, Dave Wilding.

Mr. Wilding discussed that he was hired after the walls were constructed to verify the stability of the walls. He has inspected the area, checked the compaction, checked to see if the ground had been cleared prior to the fill and run slope stability analysis. He has concluded that the walls have been properly built, that the compaction is adequate, and that the walls are stable.

Mr. Knight asked Mr. Wilding what the typical inspection process for a project similar to this would have been, if he had been hired prior to the walls being constructed. Mr. Wilding explained that he would have designed the walls and included the height, slope, drainage, foundation and the compaction. What he would have done different on this project would be that he would have checked the compaction as the fill came up, which is important for settling issues. On this project he checked the compaction by digging down to virgin soil and then checking compaction at different levels.

Mr. Chapman indicated that he also has letters from Lynn Carlson regarding the inspections during the construction of the walls. Mr. Chapman indicated that the City never does inspections on the walls during construction.

Mr. Mahan stated that was an inaccurate statement and that the City requires a building permit, so the engineering can be reviewed prior to the construction, and that Mr. Chapman did not get a permit. Mr. Mahan reminded everyone that the issue is if the wall should be there at all under the variance standards, not the soundness of the wall. Mr. Jensen discussed that this is an issue of land and that all of the evidence presented

indicates that there is no hardship of the land. Everyone in this area has a steep backyard and everyone wants to encroach into the 30% slope areas to increase the size of their backyard. Just because a person desires a bigger backyard does not overcome the requirements of the State Law, in his opinion.

Mr. Chapman feels that he is not asking for any greater variance today than the original site plan, just more of the same type of variance. Mr. Jensen said that the original site plan and the new site plan are dramatically different. The encroachment on 30% + slopes and the height of cuts and fills are dramatically different than what was approved.

Mr. Cheney added that some of the events that lead up to the approval of the original site plan were that Mr. Miller and Mr. Argyle came in with the site plan for review, and the driveway was a concern. They made some revisions and came back in for another review by the Engineering Department and at that time they were told that the site plan would need to go through the variance process. Their response was that they really needed to get this permit issued and asked if there was any way they could get a permit issued without going through the variance process. Engineering and Planning worked with them to identify the disturbed areas on the lot and they confined their grading to those areas that were identified and that was the site plan that they presented to the City. There was no mention of anything else occurring on that lot.

Mr. Badham made a motion to deny the variance to build on slopes over 30% above and beyond the approved site plan at 993 East Highland Drive, and adopt the findings of fact and conclusions of law drafted by the City Attorney. Mr. Knight seconded the motion. Voting was unanimous in favor.

4. Consider a Conditional Use Permit Letter, in written form, for a lawn care business at 294 East 1950 South, Michael Russell – Sundridge Lawn Maintenance, applicant.

Mr. Knight made a motion to approve the Conditional Use Permit letter for a lawn care business at 294 East 1950 South for Michael Russell – Sundridge Lawn Maintenance as written. Mr. Jensen seconded the motion. Voting was unanimous in favor.

Chairman Jensen ascertained that there were no other items to discuss. The meeting adjourned at 5:57 p.m.